

UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT  
**CIVIL APPEAL STATEMENT**

Please TYPE. Attach additional pages if necessary.

11th Circuit Docket Number: 23-10600

Caption: <b>UNITED STATES OF AMERICA ex rel. SEAN GOSE,</b> <b>as Personal Representative of the Estate of</b> <b>DENNIE GOSE, et al., Plaintiffs/Relators</b> <b>v.</b> <b>NATIVE AMERICAN SERVICES CORPORATION et</b> <b>al.,</b> <b>Defendants.</b>	District and Division: <u>Middle District of Florida, Tampa Division</u> Name of Judge: <u>Susan C. Bucklew</u> Nature of Suit: <u>Torts: False Claims Act</u> <hr/> Date Complaint Filed: <u>12/15/2016</u> District Court Docket Number: <u>8:16-cv-3411-SCB-AEP</u> <hr/> Date Notice of Appeal Filed: <u>2/23/2023</u> <input type="checkbox"/> Cross Appeal <input type="checkbox"/> Class Action <hr/> Has this matter previously been before this court? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, provide (a) Caption: _____ (b) Citation: _____ (c) Docket Number: _____
---	---

	Attorney Name	Mailing Address	Telephone, Fax, Email
For Appellant: <input checked="" type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Other (Specify)	Jonathan K. Tycko Glenn E. Chappell	TYCKO & ZAVAREEI LLP 2000 Pennsylvania Ave NW Suite 1010 Washington, DC 20006	Telephone: (202) 973-0900 Facsimile: (202) 973-0950 jtycko@tzlegal.com gchappell@tzlegal.com
	Elaine J. Stromgren	WILBANKS AND GOUINLOCK, LLP One Ameris Center 3490 Piedmont Rd NE Suite 1010 Atlanta, GA 30305	Direct Dial: (813) 425-1039 Firm: (404) 842-1075 ejs@wilbanksgouinlock.com
For Appellee: <input type="checkbox"/> Plaintiff <input checked="" type="checkbox"/> Defendant <input type="checkbox"/> Other (Specify)	Adam P. Schwartz Matthew J. Conigliaro Erin J. Hoyle	CARLTON FIELDS, P.A. P.O. Box 3239 Tampa, FL 33601-3239	Telephone: 813.223.7000 Facsimile: 813.229.4133 E-mail: aschwartz@carltonfields.com E-mail: mconigliaro@carltonfields.com E-mail: ehoyle@carltonfields.com
	Brian R. Cummings	GREENSPOON MARDER LLP 401 E. Jackson Street, Suite 1825 Tampa, FL 33602	Telephone: (813) 768-7020 Facsimile: (813) 426-8580 brian.cummings@gmlaw.com
	Matthew E. Feinberg Todd M. Reinecker	PILIEROMAZZA PLLC 1001 G Street N.W., Suite 1100 Washington, DC 20001	Telephone: (202) 857-1000 Facsimile: (202) 857-0200 mfeinberg@piliromazza.com treinecker@piliromazza.com

Please CIRCLE/CHECK/COMPLETE the items below and on page 2 that apply.

Jurisdiction	Nature of Judgment	Type of Order	Relief
<input checked="" type="checkbox"/> Federal Question <input type="checkbox"/> Diversity <input type="checkbox"/> US Plaintiff <input type="checkbox"/> US Defendant	<input checked="" type="checkbox"/> Final Judgment, 28 USC 1291 <input type="checkbox"/> Interlocutory Order, 28 USC 1292(a)(1) <input type="checkbox"/> Interlocutory Order Certified, 28 USC 1292(b) <input type="checkbox"/> Interlocutory Order, Qualified Immunity <input type="checkbox"/> Final Agency Action (Review) <input type="checkbox"/> 54(b)	<input checked="" type="checkbox"/> Dismissal/Jurisdiction <input type="checkbox"/> Default Judgment <input type="checkbox"/> Summary Judgment <input type="checkbox"/> Judgment/Bench Trial <input type="checkbox"/> Judgment/Jury Verdict <input type="checkbox"/> Judgment/Directed Verdict/NOV <input type="checkbox"/> Injunction <input type="checkbox"/> Other _____	Amount Sought by Plaintiff: <u>\$ To be determined at trial</u>  Amount Sought by Defendant: \$ _____  Awarded: \$ _____ to _____  Injunctions: <input type="checkbox"/> TRO <input type="checkbox"/> Granted <input type="checkbox"/> Preliminary <input type="checkbox"/> Denied <input type="checkbox"/> Permanent

Based on your present knowledge:

- (1) Does this appeal involve a question of First Impression? ☒ Yes ☐ No

What is the issue you claim is one of First Impression? After a small business owned and controlled by a socially and economically disadvantaged individual is awarded a government contract under the Small Business Administration's 8(a) Program, must the disadvantaged individual maintain qualifying unconditional ownership and control of the business throughout the duration of the contract, unless the business seeks and obtains a waiver from the Small Business Administration?

- (2) Will the determination of this appeal turn on the interpretation or application of a particular case or statute? ☒ Yes ☐ No

If Yes, provide

(a) Case Name/Statute 31 U.S.C. § 3729 (False Claims Act)

(b) Citation N/A

(c) Docket Number if unreported N/A

- (3) Is there any case now pending or about to be brought before this court or any other court or administrative agency that

(a) Arises from substantially the same case or controversy as this appeal? ☐ Yes ☒ No

(b) Involves an issue that is substantially the same, similar, or related to an issue in this appeal? ☐ Yes ☒ No

If Yes, provide

(a) Case Name N/A

(b) Citation N/A

(c) Docket Number if unreported N/A

(d) Court or Agency N/A

- (4) Will this appeal involve a conflict of law

(a) Within the Eleventh Circuit? ☐ Yes ☒ No

(b) Among circuits? ☐ Yes ☒ No

If Yes, explain briefly:

N/A

- (5) Issues proposed to be raised on appeal, including jurisdictional challenges:

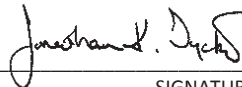
- Whether the District Court erred in ruling that the first amended complaint failed to sufficiently plead the elements of Relators' claims under the False Claims Act's false-presentment provision, 31 U.S.C. § 3729(a)(1)(A).
- Whether the District Court erred in ruling that the first amended complaint failed to sufficiently plead the elements of Relators' claims under the False Claims Act's false-record provision, 31 U.S.C. § 3729(a)(1)(B).
- Whether the District Court erred in ruling that the first amended complaint failed to sufficiently plead the elements of Relators' claims under the False Claims Act's conspiracy provision, 31 U.S.C. § 3729(a)(1)(C).
- Whether the District Court abused its discretion in dismissing the first amended complaint with prejudice.

I CERTIFY THAT I SERVED THIS CIVIL APPEAL STATEMENT ON THE CLERK OF THE U.S. COURT OF APPEALS FOR THE ELEVENTH CIRCUIT AND

SERVED A COPY ON EACH PARTY OR THEIR COUNSEL OF RECORD, THIS 15th DAY OF March, 2023.

Jonathan K. Tycko

NAME OF COUNSEL (Print)



SIGNATURE OF COUNSEL